

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

MARLENE FEARING,

Case No. 22-CV-1177 (PJS/ECW)

Plaintiff,

v.

ORDER

UNIVERSITY OF MINNESOTA
PHYSICIANS; MHEALTH FAIRVIEW;
and MAYO CLINIC,

Defendants.

Plaintiff Marlene Fearing brought this action in state court. Fearing has since filed a notice of removal seeking to relocate the litigation from state court to federal court. But a plaintiff cannot remove her own lawsuit to federal court. Only the defendant (or defendants) to a state-court action may file a notice of removal. *See* 28 U.S.C. § 1441(a); 28 U.S.C. § 1446(a).

Even if Fearing could remove her own lawsuit from state to federal court, the notice of removal is untimely. Under 28 U.S.C. § 1446(b)(1),

[t]he notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within 30 days after the service of summons upon the defendant if such initial pleading has

then been filed in court and is not required to be served on the defendant, whichever period is shorter.

Fearing has not provided "a copy of all process, pleadings, and orders served upon such defendant or defendants," as required by § 1446(a), but her notice of removal makes clear that defendants have been in receipt of the pleading in this matter for well more than 30 days. *See* Notice of Removal at 6-8 [ECF No. 1].

Because Fearing cannot remove this litigation to federal court, this matter will be remanded to Hennepin County District Court. Fearing's pending application to proceed *in forma pauperis* will be denied as moot in light of the remand.

Based on the foregoing, and on all of the files, records, and proceedings herein,
IT IS HEREBY ORDERED THAT:

1. This matter is REMANDED to Hennepin County District Court.
2. The application to proceed *in forma pauperis* of plaintiff Marlene Fearing [ECF No. 3] is DENIED AS MOOT.

Dated: May 18, 2022

s/Patrick J. Schiltz

Patrick J. Schiltz
United States District Judge